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4 Attorneys for STATE OF ARIZONA

5 **IN THE SUPERIOR COURT**

6 **STATE OF ARIZONA, COUNTY OF YAVAPAI**

7 STATE OF ARIZONA,

8 Plaintiff,

9 vs.

10 JAMES ARTHUR RAY,

11 Defendant.

V1300CR201080049

12 **MOTION TO EXTEND TIME FOR
13 DISCLOSURE PURSUANT TO RULE
14 15.6((d), ARIZ. R. CRIM. P.**

15 **(The Honorable Warren Darrow)**

16 Comes now the State of Arizona, pursuant to Rule 15.6(c) and Rule 15.6(d) of the
17 Arizona Rules of Criminal Procedure, and respectfully requests that this Court extend the time
18 for disclosure and allow it to use the following material or information during trial.

- 19 1. Letter dated March 7, 2011, from Jack Silver to James Arthur Ray, Re:
20 Unauthorized Use of Trademark / False Statements Relating to Grof
21 Transpersonal Training and Dr. Stan Grof
- 22 2. E-mail dated March 6, 2011, from Lance Giroux to Detective Diskin, re:
23 Samurai Game® & James A. Ray Trial
- 24 3. Letter dated March 5, 2011, from Chris Majer to Lance Giroux

25 This motion is based on the following memorandum of points and authorities and the
26 attached affidavit.

MEMORANDUM OF POINTS AND AUTHORITIES

Rule 15.6(c), Ariz. R. Crim. P., provides that, unless otherwise permitted, all disclosure must be completed at least 7 days prior to trial, and Rule 15.6(d) provides that, if the material and information is not disclosed at least 7 days prior to trial, the party must obtain leave of the

STATE OF ARIZONA
SUPERIOR COURT
COUNTY OF YAVAPAI

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1 court by motion, supported by affidavit, to extend the time for disclosure and use the material or
2 information, and the trial may extend the time for disclosure and allow a party to use material or
3 information if it finds that the material or information could not have been discovered or
4 disclosed earlier even with due diligence, and the material or information was disclosed
5 immediately upon its discovery.

6
7 On March 5, 2011, the State received an e-mail from Lance Giroux regarding Defendant's
8 unauthorized use of The Samurai Game®. Attached to the e-mail was a letter from Chris Majer
9 regarding Defendant's possible exposure to the game while employed by AT&T. The e-mail and
10 the letter were immediately disclosed in the State's 43rd Supplemental Disclosure Statement. In
11 addition, the State immediately filed an amended Witness List to include Mr. Giroux and Chris
12 Majer.

13
14 Mr. Giroux and the fact that Defendant was never trained or licensed to conduct The
15 Samurai Game® was known to the State and was previously disclosed in the State's First
16 Supplemental Disclosure dated March 4, 2010. Accordingly, Defendant has been on notice since
17 this time that the State could present evidence relating to unauthorized use of The Samurai
18 Game® at trial. Given Defendant's repeated references to the game as being the same game
19 conducted by AT&T, the U.S. Army, Verizon, etc., the State now intends to present this
20 evidence to the jury.

21
22 On March 10, 2011, the State received a copy of a letter dated March 7, 2011 from Jack
23 Silver, Attorney for GTT, to Defendant documenting his unauthorized use of Holotropic
24 Breathwork™. This information was not known to the State until it received the letter. On March
25 11, 2011, the State disclosed Mr. Silver and the letter to Defendant.

26

Office of the Yavapai County Attorney

255 E. Gurley Street

Prescott, AZ 86301

Phone: (928) 771-3344 Facsimile: (928) 771-3110

1 Both The Samurai Game® and Holtropc Breathwork™ require specialized training and
2 certification prior to their use. It is clear from the referenced correspondence that Defendant
3 never received the required training and certification. Despite his lack of training, Defendant
4 repeatedly held seminars in which he conducted both events and made false representations to
5 the participants that he was authorized and qualified to do so. This information is relevant to
6 establish the mental state of recklessness for the charge of Manslaughter.
7

8 Accordingly the State therefore requests that this Court enter its order extending the time
9 for disclosure and allowing the State to use the material or information.

10 RESPECTFULLY submitted this 14th day of March, 2011.

11
12 By Sheila Sullivan Polk
13 SHEILA SULLIVAN POLK
14 YAVAPAI COUNTY ATTORNEY
15

16 **COPIES** of the foregoing emailed this
17 14th day of March, 2011:

18 Hon. Warren Darrow
19 Dtroxell@courts.az.gov

20 Thomas Kelly
21 tkkelly@thomaskellypc.com

22 Truc Do
23 Tru.Do@mto.com

24 By: [Signature]
25
26

COPIES of the foregoing delivered this
14th day of March, 2011, to

Thomas Kelly
Via courthouse mailbox

Truc Do
Munger, Tolles & Olson LLP
355 S. Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560

Via U.S. Mail
By: [Signature]

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6 IN AND FOR THE COUNTY OF YAVAPAI

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10 JAMES ARTHUR RAY,

11 Defendant.

Cause No. V1300CR201080049

Division PTB

AFFIDAVIT IN SUPPORT OF
MOTION TO EXTEND
DISCLOSURE DEADLINE

12 STATE OF ARIZONA)
13) ss
14 County of Yavapai)

15 SHEILA POLK, being first duly sworn upon her oath, deposes and says:

16 1. She is the Yavapai County Attorney assigned to prosecute the above-noted matter.

17 2. That Defendant, JAMES ARTHUR RAY, was indicted on February 4, 2010 with three
18 (3) counts of Manslaughter, each a class 2 felony.

19 3. A felony criminal trial commenced in this Court on the 16th day of February, 2011 and
20 is currently proceeding.

21 4. That on March 5, 2011, the State received an e-mail from Lance Giroux regarding
22 Defendant's unauthorized use of The Samurai Game®. Attached to the e-mail was a letter from
23 Chris Majer regarding Defendant's possible exposure to the game while employed by AT&T.
24
25
26

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1 5. That the e-mail and the letter were immediately disclosed in the State's 43rd
2 Supplemental Disclosure Statement.

3 6. That on March 10, 2011, the State received a copy of a letter dated March 7, 2011 from
4 Jack Silver, Attorney for GTT, to Defendant documenting his unauthorized use of Holotropic
5 BreathworkTM.

6 7. That this information was not known to the State until it received the letter.

7 8. That the letter was immediately disclosed in the State's 44th Supplemental Disclosure.

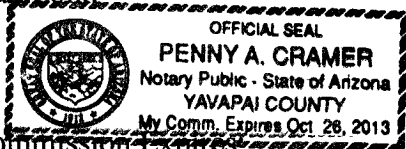
8 The above information is based upon my information and belief

9
10 RESPECTFULLY SUBMITTED this 14th day of March, 2011.

11 SHEILA SULLIVAN POLK
12 YAVAPAI COUNTY ATTORNEY

13 By: Sheila Polk
14 Sheila Sullivan Polk
15 Yavapai County Attorney

16 SUBSCRIBED and SWORN to before me this 14th day of March, 2011, by Sheila
17 Sullivan Polk.



19 My Commission Expires:

20 10-26-2013

21 Penny A. Cramer
22 Notary Public
23
24
25
26